

A. Scheduled Air Service

Section 1

Airlines of one Party whose designation identifies Part A of this Annex shall, in accordance with the terms of their designation, be entitled to perform scheduled international air transportation (1) between points on the following routes, and (2) between points on such routes and points in third countries through points in the territory of the Party which has designated the airlines.

A. Routes for the airline or airlines designated by the Government of the United States:

From the United States of America via intermediate points listed in paragraph C to Budapest and beyond to points listed in paragraph C.

B. Routes for the airline or airlines designated by the Government of the Hungarian People's Republic:

From the Hungarian People's Republic via intermediate points listed in paragraph D to New York, Chicago and Los Angeles* and beyond to points listed in paragraph D.

* The right to serve Los Angeles is effective April 1, 1990 and such service may be provided only by means of a code share or blocked space arrangement and only on a U.S. airline.

C. An airline or airlines designated by the United States may operate via a total of seven intermediate and/or beyond points in Europe and/or Canada. Initially, five of these points are: Zurich, Frankfurt, Vienna, Bucharest, and Dubrovnik; two additional points may be named upon 30 days' advance notice to the other Party.

D. An airline or airlines designated by the Hungarian People's Republic may operate via a total of five intermediate and/or beyond points in Europe and/or Canada. Initially, two of these points are Zurich and Frankfurt; three other points may be named upon 30 days' advance notice to the other Party.

E. The Parties shall have the right to replace their intermediate and beyond points with other points in Europe and/or Canada at six month intervals with 30 days' advance notice to the other Party.

Section 2

Each designated airline may, on any or all flights and at its option, operate flights in either or both directions and without directional or geographic limitation, serve points on the routes in any order, and omit stops at any point or points outside the territory of the Party which has designated that airline without loss of any rights to carry traffic otherwise permissible under this Agreement.

Section 3

On any international segment or segments of the routes above, each designated airline may perform international air transportation without any limitation as to change, at any point on the route, in type or number of aircraft operated, provided that in the outbound direction the transportation beyond such point is a continuation of the transportation from the territory of the Party which has designated the airline and, in the inbound direction, the transportation to the territory of the Party which has designated the airline is a continuation of the transportation beyond such point.

B. Charter Air Services

Section 1

Airlines of one Party designated under Part B of this Annex shall, in accordance with the terms of their designation, be entitled to perform international charter air transportation of passengers (and their accompanying baggage) and/or cargo:

- (a) between any point or points in the territory of the Party which has designated the airline and any point or points in the territory of the other Party;
- (b) between any point or points in the territory of the other Party and any point or points in a third country or countries provided that such traffic is carried via the carrier's homeland and makes a stopover in the homeland for at least two consecutive nights.

In the performance of services covered by Part B of this Annex, airlines of one Party designated under this Part shall also have the right: (1) to make stopovers at any points whether within or outside the territory of either Party; (2) to carry transit traffic through the other Party's territory; and (3) to combine on the same aircraft traffic originating in one Party's territory with traffic that originated in the other Party's territory.

Each Party shall extend favorable consideration to applications by designated airlines of the other Party to carry traffic not

covered by this Annex on the basis of comity and reciprocity.

Section 2

With regard to traffic originating in the territory of either Party, each designated airline performing air transportation under Part B of this Annex shall comply with such laws, regulations and rules of the Party in whose territory the traffic originates, whether on a one-way or roundtrip basis, as that Party now or hereafter specifies shall be applicable to such transportation. If one Party applies more restrictive rules, regulations, terms, conditions or limitations to one or more of its airlines, the designated airlines of the other Party shall be subject to the least restrictive of such rules, regulations, terms, conditions or limitations. Moreover, if either Party promulgates regulations or rules which apply different conditions to different countries, each Party shall apply the least restrictive of such regulations or rules to the designated airline(s) of the other Party.

Notwithstanding the above paragraph, nothing contained therein shall limit the rights of one Party to require the designated airline or airlines of the other Party to adhere to requirements relating to protection of passenger funds and passenger cancellation and refund rights, or adherence to requirements established in the interest of national security.

Section 3

Neither Party shall require a designated airline of the other Party, ~~in~~ respect of the carriage of traffic from the territory of that other Party on a one-way or roundtrip basis, to submit more than a declaration of conformity with the laws, regulations or rules of that other Party referred to under Section 2 of Part B of this Annex or a waiver of these regulations or rules granted by the aeronautical authorities of that other Party.

C. Commercial Opportunities

(1) Ground-handling. Each designated airline may perform its own ground-handling in the territory of the other Party ('self-handling') or, at its option, select among competing agents for such services. These rights shall be subject only to physical constraints resulting from considerations of airport safety. Where such considerations preclude self-handling, ground services shall be available on an equal basis to all airlines; charges shall be based on the costs of services provided; and such services shall be comparable to the kind and quality of services if self-handling were possible.

(2) Sale of Air Transportation. In the sale of air tickets, the designated airlines may engage in such sales in the territory of the other Party directly and, at the airline's discretion, through its agents duly authorized for such activity, except, in the case of charters, as may be specifically provided by the charter regulations of the country in which the charter originates. In the sale of cargo transport in Hungary, U.S. airlines are required to use the airway bill of MALEV so long as that requirement exists according to Hungarian law and regulation.

(3) The designated airlines of each Party will be able to enter into freely negotiated commercial arrangements regarding code-sharing, blocked space or similar arrangements with the designated airlines of the other Party, subject to approval on the bases of comity and reciprocity and consistency with this Agreement and its Annex as well as with applicable laws and regulations.

(4) Flight Routes. The flight routes of aircraft conducting scheduled and charter operations and the points at which they cross national boundaries will be established by each Party within its territory.

INITIALS

APPR:	PES	...
DRAFT:	JJM	OK
CLR 1:	MHA	OK
CLR 2:	MLA	OK
CLR 3:	FJH	OK
CLR 4:	DAM	OK
CLR 5:	TCO	OK
CLR 6:	EAL	OK
CLR 7:	SHA	OK
CLR 8:	JRB	

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EB/TRA/AN:JMAGSAYSAY:JM
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EB:PESIMONS

L/EB:MRHAKIMI	EUR/NCE:MALABONTE	L/T:FJHOLLERAN
E:DAMORRISON	EB/TRA/AN:TSENGLE	DOC:EALFORD
DOT:SHATLEY	EB/TRA:JRBYERLY	

ROUTINE BUDAPEST

E.O. 12958: N/A

TAGS: EAIR, HU, KTIA

SUBJECT: EXTENSION OF U.S.-HUNGARY AIR TRANSPORT AGREEMENT
ANNEX

1. This is an action message.

2. As Embassy may be aware, the Annex to the U.S. - Hungary Air Transport Agreement expires on July 12. Embassy is requested to propose extending the Annex for one year by sending the diplomatic note below to the GOH. In extending this proposal, Embassy should inform the GOH that the USG remains committed to early implementation of the U.S.-EU comprehensive aviation agreement, which we hope will be applied at the beginning of the summer 2007 traffic season. Once implemented, it will supersede the U.S.-Hungary bilateral agreement. However, extension of the current agreement is necessary in the interim. At the upcoming U.S.-EU summit in Vienna, we expect the two sides

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to reaffirm their commitment to conclude their aviation agreement by the end of this year.

3. Text of dipnote:

[complimentary opening] and refers the Ministry to the Air Transport Agreement between the United States of America and the Republic of Hungary, signed at Budapest July 12, 1989, as extended ("the Agreement"). The Embassy proposes on behalf of the United States of America that the Annex to the Agreement be extended until July 12, 2007.

If the foregoing is acceptable to the Republic of Hungary, the Embassy proposes that this Note and the Ministry's affirmative Note in reply, shall constitute an agreement between the United States of America and the Republic of Hungary that shall enter into force on the date of the Ministry's Note. [Complimentary closing]

4. The Department appreciates Embassy's attention to this matter.

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Background

The 1989 Air Transport Agreement between the United States and Hungary (the "Agreement") is relatively liberal, with no restrictions on capacity or on the number of airlines that may be designated. The Agreement is for the time being acceptable to both parties, especially because the Hungarian government has granted extra-bilateral authority for Northwest Airlines and United Airlines to serve Hungary through codeshare arrangements with third-country carriers. Malev, Hungary's state-owned national airline, provides the only non-stop service between the United States and Hungary. Northwest Airlines places its code on that flight.

The Annex to the Agreement expires on July 12, 2006. It sets forth the route rights and related operative provisions with respect to scheduled and charter air services, and establishes certain commercial opportunities. The Annex was originally scheduled to expire three years from the date of signature of the Agreement, but one-year extensions have been concluded each of the last fourteen years. We have held to one-year extensions in the hopes of using the extension dialogues to begin negotiations on a full Open Skies agreement. The Hungarian Government has resisted that path, in recent years responding that it would be inappropriate to negotiate an Open Skies agreement at this time, since the European Commission and the United States have been negotiating a comprehensive U.S.-EU air transport agreement. Such an agreement, when and if concluded, would supersede the bilateral agreement between the United States and Hungary.

Conclusion of an agreement to extend the Annex is in our economic and political interest since it ensures a continuing foundation for a profitable aviation relationship. Relevant USG agencies and U.S. industry support extending the Annex.

The Assistant Secretary for Economic and Business Affairs has authority to approve conclusion of the agreement pursuant to the request for blanket authorization approved by the Under Secretary for Economic Affairs on July 15, 1999, subject to a review of the text by, and approval of, the appropriate regional bureau, L, and the Department of Transportation.

L has advised that the obligations contained in the proposed agreement are consistent with United States domestic law and existing international obligations.

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L further advises that there is sufficient authority to conclude the proposed agreement based on the President's foreign affairs authority under Article II of the Constitution, as exercised on his behalf on a day-to-day basis by the Secretary of State, pursuant to Section 2656 of Title 22, United States Code. The central role played by the Secretary of State with particular regard to international civil aviation agreements has been acknowledged by the Congress in Section 40105(a) of Title 49, United States Code (Transportation), which provides that:

The Secretary of State shall advise the Administrator of the Federal Aviation Administration and the Secretaries of Transportation and Commerce, and consult with them as appropriate, about negotiations for an agreement with a government of a foreign country to establish or develop air navigation, including air routes and services.

Since the provisions of the agreement are of a routine and technical nature, no Congressional consultations are required.

Conclusion of this agreement will not require environmental documentation under Executive Order 12114. The Department of State commits neither funds nor personnel to the implementation of this agreement. Any overseas assignment in the future of USG Executive Branch personnel related to this agreement will be governed by established National Security Decision Directive (NSDD) 38 procedures.

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